

# United States Patent and Trademark Office

UNITED STATES DEPARTMENT OF COMMERCE United States Patent and Trademark Office Address: COMMISSIONER FOR PATENTS P.O. Box 1450 Alexandria, Virginia 22313-1450 www.uspto.gov

APPLICATION NO.	F	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/730,210		12/08/2003	Marc Richelsoph	BBM-141US2	2079
23122	7590	11/17/2006		· EXAMINER	
RATNERP	RESTIA		SHAFFER, RICHARD R		
P O BOX 980 VALLEY FORGE, PA 19482-0980				ART UNIT	PAPER NUMBER
				3733	•
				DATE MAILED: 11/17/2006	

Please find below and/or attached an Office communication concerning this application or proceeding.

	Application No.	Applicant(s)				
	10/730,210	RICHELSOPH ET AL.				
Office Action Summary	Examiner	Art Unit				
	Richard R. Shaffer	3733				
The MAILING DATE of this communication appears on the cover sheet with the correspondence address Period for Reply						
A SHORTENED STATUTORY PERIOD FOR REPLY WHICHEVER IS LONGER, FROM THE MAILING DA  - Extensions of time may be available under the provisions of 37 CFR 1.13 after SIX (6) MONTHS from the mailing date of this communication.  - If NO period for reply is specified above, the maximum statutory period w  - Failure to reply within the set or extended period for reply will, by statute, Any reply received by the Office later than three months after the mailing earned patent term adjustment. See 37 CFR 1.704(b).	ATE OF THIS COMMUNICATION 36(a). In no event, however, may a reply be tin vill apply and will expire SIX (6) MONTHS from cause the application to become ABANDONE	N. nely filed the mailing date of this communication. D (35 U.S.C. § 133).				
Status						
1) Responsive to communication(s) filed on 23 M	arch 2003.					
2a) This action is <b>FINAL</b> . 2b) ⊠ This	This action is <b>FINAL</b> . 2b)⊠ This action is non-final.					
Since this application is in condition for allowance except for formal matters, prosecution as to the merits is						
closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213.						
Disposition of Claims						
4)⊠ Claim(s) <u>1-8,10-17,21,50-53,57 and 59-66</u> is/are pending in the application.						
4a) Of the above claim(s) is/are withdrawn from consideration.						
5) Claim(s) is/are allowed.						
6) Claim(s) is/are rejected.						
7) Claim(s) is/are objected to.						
8)⊠ Claim(s) <u>1-8,10-17,21,50-53,57 and 59-66</u> are	subject to restriction and/or elect	ion requirement.				
Application Papers						
9) The specification is objected to by the Examine	r.					
10) ☐ The drawing(s) filed on is/are: a) ☐ acce		Examiner.				
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).						
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).						
11) The oath or declaration is objected to by the Ex	aminer. Note the attached Office	Action or form PTO-152.				
Priority under 35 U.S.C. § 119						
12) ☐ Acknowledgment is made of a claim for foreign a) ☐ All b) ☐ Some * c) ☐ None of:  1. ☐ Certified copies of the priority documents 2. ☐ Certified copies of the priority documents 3. ☐ Copies of the certified copies of the prior application from the International Bureau * See the attached detailed Office action for a list of	s have been received. s have been received in Applicati ity documents have been receive I (PCT Rule 17.2(a)).	on No ed in this National Stage				
Attachment(s)  1) Notice of References Cited (PTO-892)  2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  3) Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date	4)  Interview Summary Paper No(s)/Mail Do 5)  Notice of Informal F 6)  Other:	ate				

Application/Control Number: 10/730,210

Art Unit: 3733

#### **DETAILED ACTION**

### Election/Restrictions

This application contains claims directed to the following patentably distinct species of:

# Screw Retaining Mechanism (with representative figure):

Species I: Figure 2A

Species II: Figure 4

Species III: Figure 6A

**Species IV: Figure 11A** 

Species V: Figure 12

Species VI; Figure 14A

Species VII: Figure 15D

Species VIII: Figure 16B

## **Bone Plate Aperture (with representative figure):**

Species I: Figure 3A

Species II: Figure 6C

Species III: Figure 9

Species IV: Figure 11B

Species V: Figure 15A

Species VI: Figure 20

### Screw (with representative figure):

Species I: Figure 5

5 Species II: Figure 10

### With or Without Insert (as shown in Figure 21B)

The species are independent or distinct because they have unique structure.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species from each group of species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, claims 1, 50, 61-64 and 66 appear generic.

Page 2

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which depend from or otherwise require all the limitations of an allowable generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species.

MPEP § 809.02(a).

Applicant is advised that the reply to this requirement to be complete must include (i) an election of a species or invention to be examined even though the requirement be traversed (37 CFR 1.143) and (ii) identification of the claims encompassing the elected invention.

The election of an invention or species may be made with or without traverse. To reserve a right to petition, the election must be made with traverse. If the reply does not distinctly and specifically point out supposed errors in the restriction requirement, the election shall be treated as an election without traverse.

Should applicant traverse on the ground that the inventions or species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the inventions or species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions

**Art Unit: 3733** 

unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

#### Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Richard R. Shaffer whose telephone number is 571-272-8683. The examiner can normally be reached on Monday-Friday (7am-5pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eduardo Robert can be reached on 571-272-4719. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Application/Control Number: 10/730,210

**Art Unit: 3733** 

Page 5

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Richard Shaffer

November 9<sup>th</sup>, 2006

Dichard Druffen

ON AOBERT